



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

ELIZABETH KUMMER

Respondent Name

HARTFORD INSURANCE COMPANY OF

MFDR Tracking Number

M4-14-0803-01

Carrier's Austin Representative

Box Number 47

MFDR Date Received

November 12, 2013

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The following bill was audited and paid incorrectly. TDI-DWC addresses Return to Work (RTW) and/or Evaluation of Medical Care (EMC) Examinations with Rule 134.204, Subsection (k). The Rule states the reimbursement shall be \$500.00 in accordance with subsection (i). This section also states testing shall be billed using the appropriate CPT codes & reimbursed in addition to the examination fee. As well, under rule 134.204, Subsection (i)(2) states the first examination shall be reimbursed at 100% of the fee outline in (k), the second at 50% and subsequent examinations at 25%."

Amount in Dispute: \$175.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Conventry has reconsidered the disputed billing and has determined that the reduction was appropriate. Please see the attached analysis."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 30, 2013	CPT Code 99456-RE-W8	\$175.00	\$175.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.204 sets out the fee guideline for workers' compensation specific services.
3. Labor Code §408.004 sets out provisions related to required medical examinations.
4. Labor Code §408.0041 sets out provisions related to designated doctor examinations.
5. Labor Code §408.151 sets out provisions related to medical examinations for supplemental income benefits.
6. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 59 – Processed based on multiple or concurrent procedure rules

Issues

1. What is the applicable rule for determining reimbursement of the disputed services?
2. Did the respondent support the insurance carrier's reasons for reduction of payment?
3. Is the requestor entitled to reimbursement?

Findings

1. The disputed services relate to a designated doctor examination to determine the ability of the injured employee to return to work, with billing and reimbursement subject to the provisions of 28 Texas Administrative Code §134.204(i)(1), which requires that "Designated Doctors shall perform examinations in accordance with Labor Code §§408.004, 408.0041 and 408.151 and Division rules, and shall be billed and reimbursed as follows: . . . (E) Ability of the employee to return to work shall be billed and reimbursed in accordance with subsection (k) of this section, with the use of the additional modifier 'W8'." §134.204(i)(2) further specifies that "When multiple examinations under the same specific Division order are performed concurrently under paragraph (1)(C) - (F) of this subsection: (A) the first examination shall be reimbursed at 100 percent of the set fee outlined in subsection (k) of this section; (B) the second examination shall be reimbursed at 50 percent of the set fee outlined in subsection (k) of this section; and (C) subsequent examinations shall be reimbursed at 25 percent of the set fee outlined in subsection (k) of this section."

2. The insurance carrier denied service date May 30, 2013 with reason code 59 – "Processed based on multiple or concurrent procedure rules." The insurance carrier further explains in its response submission "For MMI charges billed by a designated doctor reimbursement shall be equal to the base value of \$350.00 plus the areas rated. The provider will bill procedure code 99456 with the appropriate state mandated modifiers.

Return to Work and/or Evaluation of Medicare Care. RE reimbursed \$500.00 W8, Designated Doctor Examination for Return to Work – This modifier shall be added to the appropriate examination code performed by a designated doctor when determining the ability of employee to return to work. Employee's ability to return to work W8 \$500 Reconsideration for procedure 99455 and 99456 with modifier RE and modifiers from the W6-W9 range suspend for potential manual pricing for multiple exams. When there are multiple exams performed under the same Texas Division Order, the multiple reimbursement guidelines are as follows:

1st Exam = \$500

2nd Exam = \$250.00 (50% of \$500.00)

3rd Exam = and subsequent Exams = \$125.00 (25% of \$500.00)

Per history there is no 99455 on file

99456/RE.W8 DCN 2010336F9025013 DOS 11/16/10 (\$500.00) considered the first exam

99456/RE.W8 RM DCN 2013271F9515016 DOS 05/30/13 considered the second exam

Due to multiple services, this procedure was reduced 50 percent of the fee schedule rate.

99456 \$500 for modifier RE plus \$150 for modifier RM = \$650 *50% = 325."

Review of division notes finds the purpose for the examination scheduled on May 30, 2011, is to address Return to Work (RTW) only.

The Division further notes that examinations to determine MMI and IR are subject to the provisions of §134.204(i)(1)(A) and (B) respectively—not paragraph (1)(C) - (F). Accordingly, examinations to determine MMI and IR and are not considered as first or second examinations for the purposes of calculating reduced payment for multiple examinations under paragraph (1)(C) - (F) when performed concurrently under the same specific Division order.

Review of the submitted documentation finds only one examination, procedure code 99456-W8-RE, performed under paragraph (1)(C) – (F) on the disputed service date of May 30, 2013. Although the insurance carrier refers to prior examinations performed on November 19, 2010, the Division notes that date of service November 19, 2010 is a prior examinations. Review of Division records finds prior examinations on November 19, 2010, April 05, 2010 and September 23, 2009. The reimbursement reductions contemplated in §134.204(i)(2) are only applicable to multiple examinations under the same specific Division order. Review of the submitted documentation finds that the examinations performed in November 19, 2010, April 05, 2010 and September 23, 2009 were rendered pursuant to three different Division orders. No information was found to support insurance carrier payment of any other examinations performed concurrently under paragraph (1)(C) - (F) under the same examination for service date May 30, 2013. The insurance carrier's payment reduction reason is not supported

3. Per 28 Texas Administrative Code §134.204(k), "The following shall apply to Return to Work (RTW) and/or Evaluation of Medical Care (EMC) Examinations. When conducting a Division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT Code 99456 with modifier 'RE.' In either instance of whether MMI/IR is performed or not, the reimbursement shall be \$500 in

accordance with subsection (i) of this section and shall include Division-required reports.” Reimbursement for procedure code 99456-W8-RE is \$500.00. The insurance carrier paid \$325.00, leaving a balance due to the requestor of \$175.00. The requestor is therefore entitled to additional reimbursement of \$175.00.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$175.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of \$175.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	_____	<u>08/28/14</u>
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.